

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

6 COLONIAL AMERICAN CASUALTY
AND SURETY CO.,

Plaintiff, No. C 04-1714 PJH

ORDER OF DISMISSAL

9 BAY COMMERCIAL CONSTRUCTION,
10 INC., et al.,

Defendants.

No. C 04-1714 PJH

13 Counsel for plaintiff, having advised the court in writing that the parties have agreed to
14 a settlement of this case, IT IS HEREBY ORDERED that this cause of action is dismissed
15 **without** prejudice; provided, however that if any party hereto shall certify to this court, within
16 ninety (90) days, with proof of service thereof, that the agreed consideration for said settlement
17 has not been delivered over, the foregoing order shall stand vacated and this cause shall
18 forthwith be restored to the calendar to be set for trial.

19 The parties may substitute a dismissal **with** prejudice simply by submitting a stipulation
20 and order for dismissal with prejudice within ninety (90) days.

21 SO ORDERED.

22 || Dated: February 24, 2006

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PHYLLIS J. HAMILTON
United States District Judge